

1
2
3 UNITED STATES DISTRICT COURT
4 EASTERN DISTRICT OF WASHINGTON

5
6 DALE JOHNSON, ROSE JOHNSON,

7 Plaintiffs,

8 vs.
9

10 UNITED STATES OF AMERICA, et al.,

11 Defendants.
12
13

NO. CV-09-259-JLQ

**ORDER DENYING PLAINTIFFS'
MOTION FOR
RECONSIDERATION**

14
15 BEFORE THE COURT is the Plaintiffs' Motion to Reconsider Facts and Amend
16 Order (ECF No. 127) and Motion for Expedited Hearing thereon (ECF No. 129). This
17 court granted Defendants' Renewed Motion for Summary Judgment in its Order of
18 October 5, 2010, and directed the Clerk to enter Judgment accordingly. Plaintiffs now
19 ask that the court reconsider its October 5, 2010 Order.

20 Plaintiffs offer no legal or factual grounds for reconsideration of the court's Order.
21 Rather, in support of their Motion, Plaintiffs criticize the preparation of their own expert
22 witness, Dr. Scott, for deposition. (ECF No. 128, p. 2). Plaintiffs agree that the issue of
23 whether the doctrine of res ipsa loquitur applies is a question of law. (ECF No. 128, p. 3).
24 This question was resolved against them in the court's October 5, 2010 Order. Plaintiffs
25 admit that at least a portion of their claims require expert testimony: "Plaintiffs agree it is
26 not within the knowledge of a lay person to determine what standard of care is required in
27 the ordering of the diagnostics in post-operative care." (ECF No. 128, p. 4). Plaintiffs
28 failed to submit any expert testimony in support of their allegation that Mr. Johnson's
post-operative care did not meet the standard of care.

1 Plaintiffs seem to assert that the grant of summary judgment should be reversed
2 because their own expert, Dr. Scott, performed poorly at deposition. This is no basis for
3 reconsideration of the grant of summary judgment, and is merely reargument by
4 Plaintiffs. Lastly, Plaintiffs' Motion seems to quarrel with the court's prior order referring
5 to her as a "paralegal," by stating: "Mrs. Johnson states she worked in a law office some
6 years back, but has no formal legal training." (ECF No. 128, p. 2). Whether Mrs.
7 Johnson worked in a law office, or received her paralegal certificate, is immaterial to the
8 merits of the case and the court's decision to grant summary judgment.

9 **IT IS HEREBY ORDERED:**

10 1. Plaintiffs' Motion to Reconsider Facts and Amend Order (ECF No. 127) is
11 **DENIED.**

12 2. Plaintiffs' Motion for Expedited Hearing (ECF No. 129) is GRANTED in part
13 and DENIED in part. The Motion is granted to the extent that the court has expedited
14 consideration, but Plaintiffs' request for oral argument is denied. Local Rule
15 7.1(h)(3)(b)(iv)("...the Court has discretion to notify the parties that oral argument is not
16 warranted and proceed to determine any motion without oral argument.").

17 **IT IS SO ORDERED.** The Clerk is hereby directed to file this Order and furnish
18 copies to Plaintiffs and counsel.

19 **DATED** this 27th day of October, 2010.

20 s/ Justin L. Quackenbush
21 JUSTIN L. QUACKENBUSH
22 SENIOR UNITED STATES DISTRICT JUDGE
23
24
25
26
27
28